

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

BOARD OF TRUSTEES of the ROCKFORD)
PIPE TRADES INDUSTRY PENSION FUND;)
BOARD OF TRUSTEES of the PLUMBERS &)
PIPEFITTERS, LOCAL 23, U.A. HEALTH &)
WELFARE FUND; BOARD OF TRUSTEES of)
The PLUMBERS & PIPEFITTERS, LOCAL 23)
U.A. JOURNEYMAN AND APPRENTICE)
TRAINING FUND; PLUMBERS &)
PIPEFITTERS, LOCAL 23 U.A.; and PIPING)
INDUSTRY COUNCIL OF THE ROCKFORD)
AREA;)

Plaintiffs,

vs.

KERBY PLUMBING, INC., an Illinois)
Corporation, KERBY PLUMBING &)
MECHANICAL, INC., an Illinois Corporation,)
And CHRISTOPHER KERBY, an individual,)

Defendants.

CIVIL ACTION

CASE NO. 08 C 50050

JUDGE PHILIP G. REINHARD

MAG. P. MICHAEL MAHONEY

**DEFENDANT KERBY PLUMBING INC., KERBY PLUMBING &
MECHANICAL INC., and CHRISTOPHER KERBY'S
AMENDED ANSWER TO THE COMPLAINT**

NOW COMES the Defendants, KERBY PLUMBING INC.,(hereinafter referred to as "Kerby Plumbing"), KERBY PLUMBING & MECHANICAL INC.,(hereinafter referred to as "Kerby Plumbing & Mechanical") and CHRISTOPHER KERBY (hereinafter referred to as "Kerby"), by and through their attorney, THOMAS O. MEYER of MEYER & HORNING, P.C., and for their amended answer to the Complaint pursuant to Federal Rule of Civil Procedure Rule 15 states it has received written consent of Plaintiff to the amended answer and further states as follows:

Jurisdiction and Venue

1. The Defendants Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby admit the allegations contained in Paragraph 1 of Plaintiff's complaint.

2. The Defendants Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby admit the allegations contained in Paragraph 2 of Plaintiff's complaint.

3. The Defendant Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby admit the allegations contained in Paragraph 3 of Plaintiff's complaint.

4. The Defendant Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby admit the allegations contained in Paragraph 4 of Plaintiff's complaint.

5. The Defendant Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby admit the allegations contained in Paragraph 5 of Plaintiff's complaint.

6. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 6 of Plaintiff's complaint.

7. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 7 of Plaintiff's complaint.

8. The Defendant Kerby Plumbing & Mechanical denies the allegations of Paragraph 8 of Plaintiff's complaint.

9. The Defendant Kerby admits the allegations of Paragraph 9 of Plaintiff's complaint.

COUNT I
Breach of Contract- Kerby Plumbing

10. The Defendants re-allege and incorporate their answers contained in Paragraph 1-9 of this answer as if fully set forth herein.

11. The Defendant Kerby Plumbing admits the allegations of Paragraph 11 of Plaintiff's complaint.

12. The Defendant Kerby Plumbing admits the allegations of Paragraph 12 of Plaintiff's complaint.

13. The Defendant Kerby Plumbing admits the allegations of Paragraph 13 of Plaintiff's complaint.

14. The Defendant Kerby Plumbing admits the allegations of paragraph 14 which state Kerby Plumbing sent a letter to the Union. Kerby Plumbing deny the allegation in the complaint that this letter purported to terminate the subscription agreement as the letter did terminate the subscription agreement.

15. The Defendant Kerby Plumbing admit the allegation that Exhibit 4 was received by Kerby Plumbing. Kerby Plumbing deny what was stated in the letter is correct as a matter of law and therefore is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in Paragraph 15 of Plaintiff's complaint.

16. The Defendant Kerby Plumbing denies the allegations contained in Paragraph 16 of Plaintiff's complaint.

17. The Defendant Kerby Plumbing denies the allegations contained in Paragraph 17 of Plaintiff's complaint.

18. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 18 of Plaintiff's complaint.

19. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 19 of Plaintiff's complaint.

20. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 20 of Plaintiff's complaint.

21. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 21 of Plaintiff's complaint.

22. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 22 of Plaintiff's complaint.

23. The Defendant Kerby Plumbing & Mechanical denies the allegations contained in Paragraph 23 of Plaintiff's complaint.

24. The Defendant Kerby Plumbing & Mechanical denies the allegations contained in Paragraph 24 of Plaintiff's complaint.

COUNT II

Successor Liability- Kerby Plumbing & Mechanical

25. The Defendants re-allege and incorporate their answers contained in Paragraph 1-24 of this answer as if fully set forth herein.

26. The Defendant Kerby Plumbing & Mechanical admit the allegations contained in Paragraph 26 of Plaintiff's complaint.

27. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 27 of Plaintiff's complaint.

28. The Defendant Kerby Plumbing & Mechanical admits the allegations contained in Paragraph 28 of Plaintiff's complaint.

29. The Defendant Kerby Plumbing and Kerby Plumbing & Mechanical deny the allegations of Paragraph 29 as the terms owned, operated and Kerby family are not defined. Admit the allegations to the extent Norman D. Kerby, Robert D. Kerby, Gregory E. Kerby and Christopher L. Kerby are shareholders and officers of Kerby Plumbing and Mechanical Inc.

30. The Defendant Kerby Plumbing & Mechanical denies the allegations in Paragraph 30 of Plaintiff's complaint as the terms industry, trade jurisdiction, employs some of the same people and share a common or similar name are not defined.

31. The Defendant Kerby Plumbing & Mechanical denies the allegations contained in Paragraph 31 of Plaintiff's complaint.

32. The Defendant Kerby Plumbing & Mechanical admits the allegations contained in Paragraph 32 of Plaintiff's complaint.

33. The Defendant Kerby Plumbing & Mechanical admits the allegations to the extent that the audit results were submitted to Kerby Plumbing & Mechanical. Kerby Plumbing & Mechanical deny the allegations to the extent it is liable for the amounts claimed in the audit.

34. The Defendant Kerby Plumbing & Mechanical admits the allegations to the extent that the audit results were submitted to Kerby Plumbing and Mechanical.

Kerby Plumbing and Mechanical deny the allegations to the extent it is liable for the amounts claimed in the audit.

35. The Defendant Kerby Plumbing & Mechanical denies the allegations contained in Paragraph 35 of Plaintiff's complaint.

36. The Defendant Kerby Plumbing & Mechanical denies the allegations contained in Paragraph 36 of Plaintiff's complaint.

37. The Defendant Kerby Plumbing & Mechanical admit to the extent the allegations that the Union purportedly collected on the Irrevocable Line of Credit. Kerby Plumbing & Mechanical deny the allegations to the extent the Union had a right to collect on the Irrevocable Line of Credit.

38. The Defendant Kerby Plumbing & Mechanical is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 38 of Plaintiff's complaint.

39. The Defendant Kerby Plumbing & Mechanical denies it is required to submit contribution reports and contribution payments as alleged in Paragraph 39 of Plaintiff's complaint.

40. The Defendant Kerby Plumbing & Mechanical denies the allegations contained in Paragraph 40 of Plaintiff's complaint.

41. The Defendant Kerby Plumbing & Mechanical denies the allegations contained in Paragraph 41 of Plaintiff's complaint.

COUNT III
Breach of Contract- Christopher Kerby

42. The Defendants re-allege and incorporate their answers contained in Paragraph 1-9 of this answer as if fully set forth herein.

43. The Defendant Kerby admits the allegations contained in Paragraph 43 of Plaintiff's complaint.

44. The Defendant Kerby admits the allegations contained in Paragraph 44 of Plaintiff's complaint.

45. The Defendant Kerby admits the allegations contained in Paragraph 45 of Plaintiff's complaint.

46. The Defendant Kerby admits the allegations contained in Paragraph 46 of Plaintiff's complaint.

47. The Defendant Kerby admits the allegations contained in Paragraph 47 of Plaintiff's complaint.

48. The Defendant Kerby denies the allegations contained in Paragraph 48 of Plaintiff's complaint.

49. The Defendant Kerby admits pursuant to the terms of the agreement he was to receive credit, but he is without knowledge or information sufficient to form a belief as to the truth of the allegations that the amount alleged of \$2,800.00 is correct.

50. The Defendant Kerby denies the allegations contained in Paragraph 50 of Plaintiff's complaint.

51. The Defendant Kerby admits the allegations contained in Paragraph 51 of Plaintiff's complaint.

52. The Defendants Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby admit it appears the Plaintiff have retained attorneys in this matter.

53. The Defendants Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby admit the allegations contained in Paragraph 53 of Plaintiff's complaint.

54. The Defendants Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby deny the allegations contained in Paragraph 54 of Plaintiff's complaint.

WHEREFORE, Defendants, Kerby Plumbing, Kerby Plumbing & Mechanical and Christopher Kerby prays that the Plaintiff's, Complaint be dismissed and a Judgment be entered for the Defendants plus costs of suit.

DEFENDANTS DEMAND TRIAL BY JURY

KERBY PLUMBING INC, KERBY PLUMBING &
MECHANICAL INC, CHRISTOPHER KERBY,
Defendants

BY: s/Thomas O. Meyer
Thomas O. Meyer, one of their attorneys

Thomas O. Meyer
Timothy F. Horning
MEYER & HORNING, P.C.
3400 North Rockton Ave.
Rockford, IL 61103
(815) 636-9300

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

BOARD OF TRUSTEES of the ROCKFORD PIPE TRADES INDUSTRY PENSION FUND; BOARD OF TRUSTEES of the PLUMBERS & PIPEFITTERS, LOCAL 23, U.A. HEALTH & WELFARE FUND; BOARD OF TRUSTEES of The PLUMBERS & PIPEFITTERS, LOCAL 23 U.A. JOURNEYMAN AND APPRENTICE TRAINING FUND; PLUMBERS & PIPEFITTERS, LOCAL 23 U.A.; and PIPING INDUSTRY COUNCIL OF THE ROCKFORD AREA;

Plaintiffs,

VS.

KERBY PLUMBING, INC., an Illinois Corporation, KERBY PLUMBING & MECHANICAL, INC., an Illinois Corporation, And CHRISTOPHER KERBY, an individual,

Defendants.

CIVIL ACTION

CASE NO. 08 C 50050

JUDGE PHILIP G. REINHARD

MAG. P. MICHAEL MAHONEY

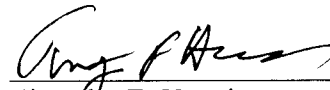
CERTIFICATE OF SERVICE

PLEASE TAKE NOTICE that on the 27th day of May, 2008, I filed with the Clerk of the United States District Court for the Northern District of Illinois Western Division, Defendant Kerby Plumbing Inc., Kerby Plumbing & Mechanical Inc., and Christopher Kerby, amended answer to the Plaintiff's complaint, in the above captioned matter. Further that pursuant to Fed. Rule of Civil Procedure 5, Local Rule 5.5 and the General Order on Electronic Case filing, the Defendants' amended answer to the complaint was served pursuant to the district courts ECF system on the following:

Attorney Dennis R. Johnson
Johnson & Krol, LLC
208 S. LaSalle Street, Suite 1602
Chicago, Illinois 60604
Johnson@johnsonkrol.com


Attorney Joseph E. Mallon
Johnson & Krol LLC
208 S. LaSalle Street, Suite 1602
Chicago, Illinois 60604
mallon@johnsonkrol.com

Attorney William P. Callinan
Johnson & Krol LLC
208 S. LaSalle Street, Suite 1602
Chicago, Illinois 60604
William@johnsonkrol.com

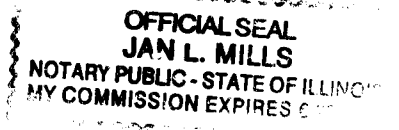


Timothy F. Horning

Subscribed and Sworn to before me
this 27 day of May, 2008.



Notary Public



Prepared by:
Thomas O. Meyer
Timothy F. Horning
MEYER & HORNING, P.C.
3400 North Rockton Ave.
Rockford, IL 61103
(815) 636-9300